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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,764	11/21/2003	Jason D. Foushee	10000/209	3285
757 BRINKS HOE	7590 05/16/2007 ER GILSON & LIONE		EXAM	INER
P.O. BOX 10395			TRUONG, KEVIN THAO	
CHICAGO, IL 60610			ART UNIT	PAPER NUMBER
			3734	
	•		MAIL DATE	DELIVERY MODE
•			05/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

·	Application No.	Applicant(s)					
Office Action Summers	10/719,764	FOUSHEE ET AL.					
Office Action Summary	Examiner	Art Unit					
	Kevin T. Truong	3734					
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the	correspondence address					
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period versiliare to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATIO 36(a). In no event, however, may a reply be to will apply and will expire SIX (6) MONTHS from cause the application to become ABANDONI	N. mely filed n the mailing date of this communication. ED (35 U.S.C. § 133).					
Status							
1) Responsive to communication(s) filed on 20 Fe	ebruary 2007.	·					
2a)⊠ This action is FINAL . 2b)☐ This	∑ This action is FINAL. 2b) This action is non-final.						
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is							
closed in accordance with the practice under E	x parte Quayle, 1935 C.D. 11, 4	53 O.G. 213.					
Disposition of Claims							
4) Claim(s) 1,2,5-7,9,10 and 19-24 is/are pending	in the application.						
4a) Of the above claim(s) is/are withdrawn from consideration.							
5) Claim(s) is/are allowed.							
6)⊠ Claim(s) <u>1-2, 5-7, 9-10, and 19-24</u> is/are rejected.							
7) Claim(s) is/are objected to.							
8) Claim(s) are subject to restriction and/o	r election requirement.						
Application Papers	•						
9) The specification is objected to by the Examine	r						
10) The drawing(s) filed on is/are: a) acce		Examiner.					
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).							
Replacement drawing sheet(s) including the correct							
11) ☐ The oath or declaration is objected to by the Ex							
Priority under 35 U.S.C. § 119							
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of:	priority under 35 U.S.C. § 119(a	a)-(d) or (f).					
1. Certified copies of the priority documents have been received.							
2. Certified copies of the priority documents have been received in Application No							
3. Copies of the certified copies of the priority documents have been received in this National Stage							
application from the International Bureau (PCT Rule 17.2(a)).							
* See the attached detailed Office action for a list of the certified copies not received.							
. •							
Attachment(s)							
1) Notice of References Cited (PTO-892)	4) Interview Summar						
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date 5) Notice of Informal Patent Application							
Paper No(s)/Mail Date	6) Other:						

Application/Control Number: 10/719,764 Page 2

Art Unit: 3734

DETAILED ACTION

Note: This is in response to an Amendment filed 02/20/2007.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 2. Claims 1-2, 5-7, 9-10, and 19-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Levine et al. (U.S. 5,868,754).

Levine et al discloses the claimed invention in figures 1 and 3, an elongated member (102) having a first portion (proximally to the proximal end) and a second portion (proximally to the distal end) with a diameter smaller than the first portion; wherein the distal end of the elongated member (102) defining a loop (104); a radiopaque marker cannula or closure member (112) (col. 4, line 66) fixedly connected to the elongated member (102) and the loop (104); wherein the width of the loop (104) is greater than the diameter of the first portion; and a intermediate portion defines a taper from the first portion to the second portion (as shown in figure 3).

Response to Arguments

1. Applicant's arguments with respect to claims 1-2, 5-7, 9-10, and 19-20 have been considered but are most in view of the new ground(s) of rejection.

Art Unit: 3734

Conclusion

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin T. Truong whose telephone number is 571-272-4705. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 6:00 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on 571-272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kevin T. Truong

Primary Examiner Art Unit 3734

ktt